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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,294

02/20/2004

Keith H. Hebron

6155

7590

09/28/2005

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EXAMINER

COLETTA, LORI L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,294

Applicant(s)

HEBRON, KEITH H.

Examiner

Lori L. Coletta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on March 27, 2003. It is noted, however, that applicant has not filed a certified copy of the Canada 2,424,320 application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." **Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.**

Drawings

3. Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2).

Claim Objections

4. Claims 2, 5 and 6 are objected to because of the following informalities:

Regarding claim 1, "the said" (lines 3 and 6) needs to be changed --said--.

See same deficiency in claims 5 (line 3) 6 (line 2).

Appropriate correction is required.

5. Claims 4, 5 and 7-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only.

See MPEP § 608.01(n). **Accordingly, the claims have not been further treated on the merits.**

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 3 and 7-11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 1-3, 10 and 11, as understand, are rejected under 35 U.S.C. 102(a) as being anticipated by Hoffman 6,623,062.

Regarding claim 1, Hoffman '062 discloses a mechanical lift system that is primarily designed to open and close an existing vehicle canopy structure by means of hinges (23) and a power lift arm (30) in Figure 1.

Regarding claim 2, Hoffman '062 discloses the mechanical lift system, includes the securing of one side of any existing vehicle canopy to the upper side of a vehicle bed by means of a continuous hinge or a serious of two or more single hinges so the vehicle canopy may move from a closed horizontal position to an upright open vertical position or vise versa or stop at any position between open and closed while at the same time maintaining a secure stability of the canopy at all times.

Regarding claim 3, Hoffman '062 discloses the mechanical lift system, is comprised partly, of a lift system which has a base plate and upright arm which is secured to the inside bed of a vehicle usually but not exclusively to the upper part of the wheel well. This positioning is primarily done to give the lift arm a balance of the canopy or cover during lift and close operations.

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Regarding claim 10, Hoffman '062 discloses the mechanical lift system, has the 12 volt, direct current, linear actuator connected to the vehicle battery via heavy gauge wire with an inline 20 ampere fuse near the battery and reverse polarity intermittent rocker toggle switch located at any convenient position between the linear actuator and vehicle battery. A heavy gauge ground wire is connected from the vehicle metal to the rocker switch and is continued to the linear actuator. While activated, the linear actuator has equal power to the lift arm in either upward and downward directions. Other power systems considered were hydraulic.

Regarding claim 11, Hoffman '062 discloses the mechanical lift system, may be installed on either side of the truck bed so the canopy may lift from any direction the installer desires. The lift system works equally from the left or right installation positions.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited references show several other mechanical lift systems similar to that of the current invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is 571-272-6658. The examiner can normally be reached on Monday-Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lori L. Coletta
Primary Examiner
Art Unit 3612

llc
September 20, 2005